

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	(Report to Congress)

COMMENTS OF SPRINT CORPORATION

As part of the 1998 appropriations bill, the Commission was directed to provide to Congress a comprehensive report of its efforts to implement that portion of the Telecommunications Act of 1996 pertaining to universal service. Correspondingly, by Public Notice issued January 5, 1998, the Commission's Common Carrier Bureau invited public comment on five specific issues which are fundamental to the Commission's universal service support mechanism. The comments received are to be used to assist the Commission in its preparation of this report to Congress. In response to the Public Notice, Sprint Corporation ("Sprint") respectfully offers the following comments.

INTRODUCTION

Undoubtedly, the Commission's willingness to accept public comment for use in its report to Congress will be viewed as an opportunity by those looking for a forum in which to attack the Act itself. However, the Commission must turn back such attempts. Certainly there are changes -- such as allowing all carriers to recover their USF contributions directly from their own end users and establishing a national universal service fund for high cost and low income -- that could and should be made to the Commission's universal service support mechanism. However, any such changes can be accomplished without disturbing the Act. Guided by the Act's clear direction, the

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Commission must strive to create a support system that is at its core, explicit, sufficient and competitively neutral.

Believing that the concept of competitive neutrality is the keystone to a workable, post-1996 Telecommunications Act universal service fund, Sprint offers the following comments to questions (3) and (5), respectively, as posed in the January 5, 1998 Public Notice.

I. (3) [W]ho is required to contribute to universal service under section 245(d) of the Act and related existing Federal universal support mechanisms, and of any exemption of providers or exclusion of any service that includes telecommunications from such requirement or support mechanisms.

There is little debate that LECs and IXC's should contribute to USF on the basis of their common carrier revenues. However, there remains substantial disagreement over how these contributions should be recovered. For example, although the Commission did not prohibit carriers from passing through their USF costs to end users, the Commission did bar carriers from labeling any USF cost recovery charge on their bills a "USF surcharge".¹ More recently, pressure has been brought to bear on carriers - in particular on IXC's, whose end users bear the brunt of USF costs - to recover their USF costs through existing rate elements rather than through new rate elements specifically implemented to recover USF costs.²

Any attempts to limit carriers' flexibility to recover their USF costs should be rejected because they violate the Act's requirement that universal service subsidies be explicit, and because such attempts are antithetical to the open market concept. In a competitive market, competitors are free to recover their costs in any manner they deem fit, subject to the pressures of the marketplace. Customers may, in turn, decide they do not like the prices of one vendor and take their business elsewhere.

¹ See, *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, Report and Order released May 8, 1997 at paragraph 855.

² *McCain Criticizes Hiding Universal Service Costs*, Communications Daily, December 15, 1997, Vol. 17, No. 240, page 1.

Recently, there have been signs that the current Commission is moving to nullify those portions of the May 8th Order which suggest that carriers are restricted in the manner in which they may recover USF contributions.³ Sprint believes this to be a good first step toward reaching the goal of competitive neutrality in the USF support mechanism. However, in order to ensure that goal is achieved, the Commission must go further and require all carriers to recoup their USF contributions explicitly from their own end users. As currently configured, the Commission's plan allows the LECs to recover the vast bulk of their interstate USF contribution from the IXC's through access charges, while the IXC's only avenue of cost recovery is through the end user. If the USF contribution is to be "nondiscriminatory" as provided for in the Act, and competitively neutral as provided for in the Commission's May 8, 1997 Report and Order in this matter,⁴ then it is imperative that all carriers recover their USF cost in a like manner - that is, from the end user customer.

II. (5) [T]he Commission's decisions regarding the percentage of universal service support provided by Federal mechanisms and the revenue base from which such support is derived.

In its May 8th Report and Order in this matter, the Commission found that section 254 of the Act grants it the authority to create a "national" USF fund for rural, insular and high cost areas and low income consumers made up of contributions from

³ See, Letter of December 16, 1997 from Chairman William Kennard to The Honorable Thomas J. Bliley, Jr. in which the Chairman stated that "These companies [IXCs] will decide how and to what extent they collect this contribution."

⁴ See, May 8, 1997 Report and Order, *supra*, at paragraph 46 where the Commission found that "Pursuant to section 254(b)(7) and consistent with the Joint Board's recommendation, we establish 'competitive neutrality' as an additional principle upon which we base policies for the preservation and advancement of universal service." The Commission continued in paragraph 47 to define 'competitive neutrality' to mean that "...universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another." Finally, in paragraph 48, the Commission agreed with the Joint Board that "...an explicit recognition of competitive neutrality in the collection and distribution of funds and determination of eligibility in universal service support mechanisms is consistent with congressional intent and necessary to promote 'a pro-competitive, de-regulatory national policy frameworks.' ... We conclude that competitively neutral rules will ensure that such disparities are minimized so that no entity receives an unfair competitive advantage that may skew the marketplace or inhibit competition by limiting the available quantity of services or restricting the entry of potential service providers."

intrastate as well as interstate revenues.⁵ The Commission has declined, however, to exercise that authority. While respecting the Commission's desire to "promote comity between the federal and state governments",⁶ Sprint continues to believe that the only way to maintain a high cost/low income fund that will achieve Congressional goals for USF is to create a national fund whose contributions are based on combined interstate and intrastate revenues.

There can be no question that the providers of intrastate local services benefit from universal service support and that the services supported by USF are largely intrastate in nature. Yet, under the Commission's current plan, these carriers' services may reap the benefits of USF without contributing equitably to the fund. For example, it is generally agreed that the ability of an end user to reach other subscribers in remote, high-cost areas effectively enhances the overall value of local service in low-cost urban areas. However, if the LEC serving those areas is not required to contribute its fair share toward universal service support, then the burden of serving these high-cost customers will be shifted disproportionately to interstate carriers and their customers, who may or may not reside in low-cost, urban areas.⁷

Simply stated, basing contribution levels on interstate revenues alone effectively exempts the majority of LEC revenues, which tend to be intrastate in nature, from the equation while, at the same time, placing a disproportionate burden on IXC's, whose revenues are primarily interstate. Such an outcome disadvantages one group of carriers (IXCs) versus another (LECs)⁸ and as such, also fails to comport with the Commission's competitive neutrality test⁹ as well as the Act's caution to make USF

⁵ *Id.* at paragraph 807.

⁶ *Id.*

⁷ Likewise, those states that are comprised of high-cost, rural territories will shoulder more of the USF burden since they will have a comparatively smaller revenue base compared to low-cost, urban states.

⁸ This outcome would also disadvantage LECs and their customers located in rural, high-cost states relative to LECs and their customers residing in urban, low-cost states.

⁹ *See*, footnote 2, *supra*.

contributions equitable and nondiscriminatory in nature. Consequently, a surcharge on all retail telecommunications services, regardless of their jurisdictional assignment is not only reasonable, but essential.

As a practical matter, the Commission's use of interstate revenues alone as a basis for USF contributions will cause the high cost and low income funds to have a relatively small revenue base which, correspondingly, will require the surcharge of the interstate carriers to be significantly higher than if a total revenue contribution base were used. As the interstate surcharge increases, so too will the negative effect on interstate services - the demand for which is significantly more elastic than local services - and thus, interstate carriers. The ultimate result of the Commission's plan will, therefore, be to allow those carriers which derive the majority of their revenues from the intrastate market to be insulated from these negative pressures. Competition can neither take root nor thrive in such an environment.

CONCLUSION

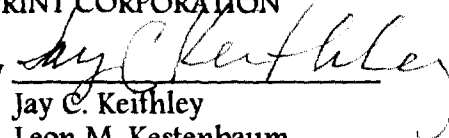
As noted earlier, the weaknesses in the USF support mechanism Sprint has delineated herein are easily correctable and can be rectified in the context of Commission administrative orders - no revision to the Act itself is necessary. The

Commission should, in its report to Congress, recommit itself to the creation of the competitively neutral USF contribution system envisioned by the Act and pledge, going forward, to take the steps outlined herein to make that system a reality.

Respectfully submitted,

SPRINT CORPORATION

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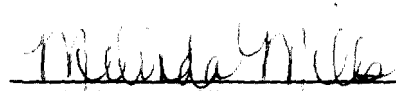
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January 26, 1998

CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 26th day of January 1998, served via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Comments of the Sprint Corporation" in the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, filed this date with the Secretary, Federal Communications Commission, to the persons on the attached service list.



Melinda L. Mills

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